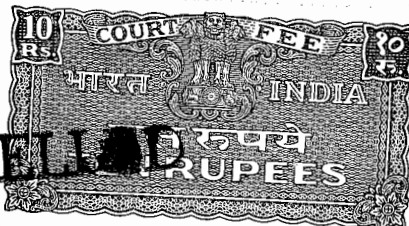


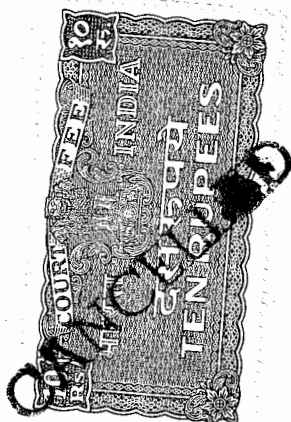
(3)
CF1006

BEFORE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

W.P. 2537 / 2003



Petitioner : ANKIT JAIN, aged about 17 years,
S/o Dr. D.C. Jain, D.O.B. 26/8/1985
r/o 49/7 Nehru Nagar East
Bhilai, Tah. & Distt. Durg (C.G.)



Through :- Dr. D.C. Jain
S/o Shri L.C. Jain
aged about 47 years,
R/o 49/7 Nehru Nagar,
East - Bhilai
Tah. & Distt. DURG (CG)

Versus.

Respondents : 1. State of Chhattisgarh
Through :- Secretary
Health And Family Welfare Department,
Govt. of Chhattisgarh
Mantralaya
Dau Kalyan Singh Bhawan,
RAIPUR (Chhattisgarh).
2. Chhattisgarh Madhyamik Shiksha Mandal,
Pension-Bada,
RAIPUR (C.G.).

No. 2322/03
Submitted by Shri. U.K. Tamsakkar
18/8/03

18/8/03

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA

आदेश पत्रक

मामला क्रमांक

wp 2537/08 सन 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>28-8-2003</u> Shri V.G. Tamaskar, counsel for the petitioner. Heard. The petitioner has preferred this petition under Article 226/227 of the Constitution of India for seeking direction to the respondents that the petitioner be admitted in the medical college against the open category quota. The petitioner's petition is that after passing his 10+2 examination he appeared in the Pre-Medical Test 2003, conducted by the respondent No.2 under Role No. 30550291 and the petitioner stands at 49th in the merit list in the open quota. In para 5.2 of the petition it is stated that out of total 100 seats, 41 seats are meant for open category quota, 12 seats for O.B.C., 29 seats for SC/ST and 18 seats reserved for other categories. The petitioner has secured 49th position in the merit list, even then he has not been called for the interview. Mr. Tamaskar, counsel for the petitioner submitted that the SC/ST and O.B.C. candidates who had secured their position on their own merit in the general list and as per the position secured by them, they have secured very high position and some of them are among first 42 candidates. Since there is a provision for reservation of those category candidates, therefore, the respondents ought to have considered them against their own reserved category quota and they ought not to have been considered against the open category quota.	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	A perusal of the broucher issued by the respondents, sub-rule 4 of rule 4 prescribes that 15% seats are reserved for SC category, 21 % seats are reserved for the ST category and 14% seats are reserved for other backward classed (except creamy-layer), therefore, by this provision 50% vertical reservation has been prescribed for the SC/ST and OBC candidates and as per the petitioner's contention ⁴⁴ seats are meant for the open category candidates and out of that 30% are reserved for female candidates, remaining must have been made available for the open category candidates and in this open category the candidates belonging to SC/ST and OBC category even then they have secured their position among those candidates on their own merit, they are not entitled for the seat in the open category quota. I do not find any substance in this argument of the learned counsel for the petitioner. As has been held by the Hon'ble Apex Court in AIR 1996 SUPREME COURT 1378 in the matter of Ritesh R. Sah. Vs. Dr. Y.L. Yamul and others that:- "Mode for filling reserved seats- Candidate entitled to be admitted on basis of merit though belonging to reserved category - Cannot be considered to be admitted against seats reserved for reserved category". In para-17 of the judgment, it has been observed that a student who is entitled to be admitted on the basis of merit though belonging to a	

आदेश पत्रक

मामला क्रमांक सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	reserved category cannot be considered to be admitted against seats reserved for reserved category and further the Hon'ble Apex Court held in (2002) 10 Supreme Court Cases 760 in the matter of M. Sreedevi Vs. University of Health Services, A.P. and others that:- "Principle to be followed in respect of SC, ST and BC candidates who secured admission on merit - Position in law being settled on the said point, held, students from SC, ST and Backward Classes having right to admission on merit, could not be considered against reserved quota - University, in instant case, erred in not following the said principle." Therefore, in view of the above judgments of the Hon'ble Apex Court, the petitioner has no merit in the petition and the same is liable to be dismissed and it is dismissed.	Sd/- L.C. Bhadoo Judge

Barve*

[पीछे देखिये]

4/10/20